

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

**DECISION AND ORDER
13-CR-80(6)S**

TASHAWN GAY,

Defendant.

1. On May 6, 2015, the Defendant entered into a written plea agreement (Docket No. 311) and pled guilty to the lesser included offense in Count 1 of the Indictment (Docket No. 1) charging a violation of Title 21 U.S.C. § 846, (conspiracy to possess with intent to distribute, and to distribute, 28 grams or more of cocaine base).

2. On May 6, 2015, the Honorable Leslie G. Foschio, United States Magistrate Judge, filed a Report and Recommendation (Docket No. 313) recommending that Defendant's plea of guilty be accepted and the Defendant adjudicated guilty.

3. Thereafter on June 18, 2015, the Defendant acknowledged that his plea of guilty was in fact to the lesser included offense in Count 1 of the Superseding Indictment (Docket No. 220) that also charged a violation of Title 21 U.S.C. § 846, (conspiracy to possess with intent to distribute, and to distribute, 28 grams or more of cocaine base).

4. On June 22, 2015, the Honorable Leslie G. Foschio, United States Magistrate Judge, filed a Report and Recommendation (Docket No. 325) recommending that Defendant's plea of guilty be accepted and the Defendant adjudicated guilty.

5. This Court has not received objections to the Report and Recommendation in accordance with 28 U.S.C. §636(b)(1) and Local Rule 59(b).

6. This Court has carefully reviewed *de novo* Judge Foschio's June 22, 2015, Report and Recommendation, the plea agreement, the Superseding Indictment, and the applicable law. Upon due consideration, this Court finds no legal or actual error in Judge Foschio's Report and Recommendation, and will accept Judge Foschio's recommendation that Defendant's plea of guilty be accepted and that the Defendant be adjudicated guilty as charged.

IT HEREBY IS ORDERED, that this Court accepts Judge Foschio's June 22, 2015, Report and Recommendation (Docket No. 325) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that the plea of guilty of Defendant, Tashawn Gay is accepted, and he is now adjudged guilty of Title 21 U.S.C. § 846.

SO ORDERED.

Dated: July 13, 2015
Buffalo, New York

s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge